

STATEMENT OF EMERGENCY

16 KAR 2:230E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. During the 2021 legislative session, the General Assembly passed House Bill 163 and the Governor signed it into law on April 5, 2021. This legislation, which is slated to become effective on June 29, 2021, amends KRS 161.030 to create an exception certificate and gives the Education Professional Standards Board (EPSB) the authority to promulgate administrative regulations establishing the requirements to receive an exception certificate. As there are only eighty-five (85) days between the Governor signing this bill into law and its effective date, the ordinary administrative regulation process would not allow the EPSB time to promulgate an ordinary administrative regulation to be effective when the statutory change goes into effect. Therefore, the emergency regulation is necessary to establish the requirements for educators to receive an exception certificate when the statutory amendment goes into effect. This emergency administrative regulation will be replaced by an ordinary administrative regulation because the exception certificate is expected to remain in statute. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
JACQUELINE COLEMAN, Secretary

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Education Professional Standards Board

(New Emergency Administrative Regulation)

16 KAR 2:230E. Exception certificate.

EFFECTIVE: June 25, 2021

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1) authorizes the Education Professional Standards Board (EPSB) to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(10) creates an exception certificate and authorizes the EPSB to promulgate administrative regulations setting forth the requirements for that certificate. This administrative regulation establishes the requirements for the exception certificate.

Section 1. (1) A candidate shall be eligible for issuance of the one-time exception certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:

- (a) Rank I or Rank II status obtained prior to the expiration of the applicant's certificate; and
 - (b) Three years of verified classroom teaching experience at a regionally- or nationally accredited nonpublic school.
- (2) The exception certificate shall reissue any expired certification that the applicant previously held, other than a certificate that expired for failure to complete the preparation program.
- (3) Reissued teaching certificates shall be subject to the renewal requirements established in 16 KAR 4:060.
- (4) Reissued administrative certificates shall be subject to the renewal requirements established in 16 KAR Chapter 3.

LISA RUDZINSKI, Board Chair

APPROVED BY AGENCY: June 24, 2021

FILED WITH LRC: June 25, 2021 at 11:01 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on August 22, 2021, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for the one-time exception certificate.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the standards for the application and issuance for the one-time exception certificate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020 requires a certificate of legal qualifications for any public-school position for which a certificate is issued. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(10) requires the EPSB to set the requirements for the one-time exception certificate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the requirements for application and issuance of the one-time exception certificate.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 173 Kentucky school districts and Rank I/II educators with an expired certificate who were unable to meet the requirements for renewal or reissuance.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants for the one-time exception certificate will have to complete an application and provide the required documentation. School dis-

tricts will not have to take any action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no fee established by the Education Professional Standards Board in this regulation. 16 KAR 4:040 sets the certification fees and applicants will have to pay the established fee that corresponds to the certificate. There is no cost for school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants will be issued a one-time exception certificate that reissues their previously expired certificates. School districts will have access to a larger pool of certified candidates.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The initial cost to implement this regulation will be the creation of the new certificate and certificate code in the system, training for staff on the standards and requirements for this new certificate, and the time and resources for processing the applications and issuing the exception certificate. This is a new certificate, and it is unknown how many applications will be received; however, it is expected that this will be offset by the certification fees collected.

(b) On a continuing basis: The continuing cost to implement this regulation will be the staff time and resources for processing applications. This is a new certificate, and it is unknown how many applications will be received; however, applicants will only be entitled to one issuance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Certification fees collected pursuant to 16 KAR 4:040.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Certification fees are established by 16 KAR 4:040. No additional fees are established by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Education Professional Standards Board and public-school districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Each applicant for the certificate will have to pay the certification fee established in 16 KAR 4:040. This is a new certificate, so it is unknown how many applications will be received. Certification fees are a part of the Education Professional Standards Board's restricted funds, that in accordance with KRS 161.028 (1)(q) can be used towards the costs of issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Each applicant for the certificate will have to pay the certification fee established in 16 KAR 4:040. This is a new certificate, so it is unknown how many applications will be received. Certification fees are

a part of the Education Professional Standards Board's restricted funds, that in accordance with KRS 161.028 (1)(q) can be used towards the costs of issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder.

(c) How much will it cost to administer this program for the first year? For the first year, cost will be the creation of the new certificate and certificate code in the system, training for staff on the standards and requirements for this new certificate, and the time and resources for processing the applications and issuing the one-time exception certificate. As this is a new certificate, we are unable to determine the number of applications that will be received. It is expected that the increased restricted fund from the certification fees collected for these applications will offset the costs.

(d) How much will it cost to administer this program for subsequent years? For subsequent years, the cost will be the staff time and resources for processing the applications and issuing the one-time exception certificates. This will vary depending on the number of applications and certificates, and as this is a new certificate, we are unable to determine that number. However, it is expected that the increased restricted funds from the certification fees collected for these applications will offset the costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: At this time, it is unknown how many educators will seek a one-time exception certificate. Applicants will be required to pay the certification fee established in 16 KAR 4:040. The certification fees collected for these applications will offset the costs of issuance.